

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RUBEN C. JONES,)
)
Petitioner,)
)
vs.) Case No. 4:09CV00974 ERW
)
JILL MCGUIRE,)
)
Respondent.)

MEMORANDUM AND ORDER

This matter comes before the Court on Petitioner's Motion for Certificate of Appealability [doc. #10] and Petitioner's Motion for Leave to Proceed In Forma Pauperis [doc. #11].

On July 10, 2009, this Court issued a Memorandum and Order of Transfer [doc. #6], finding that Petitioner had filed a successive petition for writ of habeas corpus. Title 28 U.S.C. § 2244(b)(3)(A) provides that “[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” Petitioner did not comply with § 2244(b)(3)(A) prior to filing his successive petition for writ of habeas corpus. Rather than dismiss the action, the Court transferred the petition to the United States Court of Appeals for the Eighth Circuit. Subsequently, on September 9, 2009, the Eighth Circuit entered a Judgment, denying Petitioner authorization to file a successive habeas application in the district court. Petitioner then filed the pending Motions on October 22, 2009.

Petitioner's petition for writ of habeas corpus is successive, and the Eighth Circuit has denied Petitioner authorization to file this successive writ in this, or any other, district court.

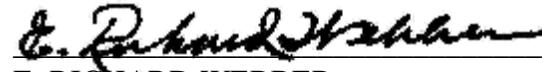
Accordingly, this Court cannot grant Petitioner's request for a certificate of appealability or his request to proceed in forma pauperis.

Accordingly,

IT IS HEREBY ORDERED that Petitioner's Motion for Certificate of Appealability [doc. #10] is **DENIED**.

IT IS FURTHER ORDERED that Petitioner's Motion for Leave to Proceed In Forma Pauperis [doc. #11] is **DENIED**.

Dated this 24th Day of March, 2010.


E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE